

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

TRIF COMPANY, )  
Plaintiff )  
v. ) CIVIL ACTION NO. 04-30194-MAP  
)  
INTERNATIONAL HOUSEWARES, INC., )  
CHRIS MORRIS d/b/a )  
INTERNATIONAL HOUSEWARES, )  
FRANK STOEGARAR d/b/a )  
WORLDWIDE MARKETING, )  
ZIA BIAO XU and )  
ZHI XIONG XU d/b/a )  
EARTH LINK LLC, )  
Defendants )

TEMPORARY RESTRAINING ORDER

September 30, 2004

PONSOR, U.S.D.J.

Counsel for the plaintiff appeared before this court today for hearing on plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction. Tracy Morris, sister of the defendant Chris Morris, appeared and spoke on behalf of Chris Morris and International Housewares, Inc., with the permission of the court despite the fact that she is not an attorney.

Based on the representations made and the evidence presented at the hearing, the court finds that there is a likelihood of confusion between the trade dress being used by the plaintiff for its SNOOZTIME therapeutic pillows, and very similar packaging being used by the defendants to distribute similar, lower quality

pillows. The court finds that the plaintiff has a likelihood of success on its eventual claim for statutory violation of its trade dress, that it will suffer irreparable harm without immediate action by the court, that the balance of harm favors the plaintiff and that the public interest would be best served by issuance of preliminary relief.

Based on the foregoing the defendants are hereby immediately enjoined and forbidden from distributing or marketing in any way any pillow using as packaging a drawstring bag (whether transparent, translucent or opaque) or any translucent bag (whether drawstring or not) that employs a gray disk or black lettering similar to the disk and lettering used by the plaintiff. In addition the defendants are ordered to surrender to the plaintiff's representative all packaging in their possession used for the marketing and distribution of therapeutic pillows that employs either a drawstring or translucent packaging with a lettering and logo similar to the plaintiff's. In the alternative, defendants will be permitted to destroy this packaging themselves.

The clerk will contact the parties to establish a date for a pretrial scheduling conference pursuant to Fed. R. Civ. P. 16. Defendants should be aware that they may be required to provide an accounting to the plaintiff of all pillows sold using the

packaging that is now forbidden. This order will expire on October 12, 2004 unless application is made for its extension by that date.

It is So Ordered.

  
MICHAEL A. PONSOR  
U. S. District Judge